UPPER CLARK FORK STEERING COMMITTEE

***MINUTES – June 24*, 1999**

MEMBERS PRESENT:

Gerald Mueller	**Jim Dinsmore**
Gary Ingman	**Bob Benson**
Robin Bullock	**Ole Ueland**
John Vanisko	**Holly Franz**
John Sesso	**Don Peters**
Martha McClain	

MEMBERS ABSENT:

Steve Schombel	**Eugene Manley**
Liz Smith	**Doug Mood**
Robert Orr	**Jim Quigley**
Brent Mannix	**Mike Griffith**
Michael Kennedy	**Suzy Peraino**
Audrey Aspholm	**Jules Waber**
Liz Smith	**Robert Orr**
Eugene Manley	

VISITORS PRESENT:

Steve Fry	**Avista**
Michael Suplee	**MT DEQ**
Mike McLane	**DNRC**
Shannon Voss	**DNRC**
Julie A. McNichol	**DNRC—Msla Reg. Office**
Susan Sakaye	**NRCS**
Roxann Lincoln	**DEQ**
Kate Walker	**USFWS**
Jim Kuipers	**CFRTAC**
John Blaine	**NRCS**
Bruce Farling	**Montana Trout Unlimited**
Dennis Workman	**Happy Fisherman**

The Upper Clark Fork River Basin Steering Committee met Thursday, June 24, 1999, in St. Mary's Center, Deer Lodge, MT.

WELCOME:

Gerald Mueller welcomed Committee members and visitors and called the meeting to order. The agenda for the meeting was as follows:

1. Water Quality Management Work Plan Implementation

2. USFWS-USFS Bull Trout
   --Grazing Allotment Reviews Under Endangered Species Act
   --Consultation
3. Trout Unlimited Proposal for Restoring the Clark Fork
4. DEQ's Assessment of Sufficient and Credible Data for TMDL listings
5. State-Avista Negotiations
6. Ground Water Study

The *Minutes* for the June 24, 1999 meeting were discussed and approved with two corrections. The first correction is the misspelling of Jim Dinsmore's name, which should be spelled "Dinsmore" not "Dunsmore." The second correction is on page seven. The incomplete line, "However, ----------the water allocation was not," should be deleted.

ANNOUNCEMENTS:

There were no announcements to begin the meeting.

WATER QUALITY MANAGEMENT:

Fred Burr Creek

Gerald Mueller explained he attended a meeting hosted by the Granite Conservation District to talk with people who live on or near Fred Burr Creek about a water quality management plan.

He explained there is an abandoned mill site near this creek where, after 100 years or so, nothing grows on the land. EPA is in the process of taking some emergency actions to try to stabilize the tailings there. The local folks were "cautiously interested" in developing a water quality management plan, but want to know what the specific problems are. Since not all of them were there, Karen Peterson with the Conservation District, agreed to conduct an individualized survey asking who is interested in doing an assessment identifying the problems. According to Mike Suplee and Roxann Lincoln, the data used to form the 303-d list is old and incomplete, so the first step in proposing a management plan is to do a self-specific assessment.

Roxann Lincoln has told us that there is 319 money that we soon can apply for to possibly pay for the assessment.

If the locals respond to the survey in favor of an assessment, we will proceed with the next step to find some expertise to do the assessment. We'll write a grant application and meet with the locals again to review and approve it. We'll have until the end of August to turn in a pre-proposal, and until October to turn in the final proposal. If we're chosen for funding, the money should be available next spring.

Mike McLane mentioned there is a $10,000 grant available through DNRC's Conservation and Resource Development Division for planning assistance. This

could get us started with the assessment earlier, and we could then use 319 money for implementation.

Gerald stated this assessment is necessary because there are some big issues on Fred Burr Creek, from siltation and aquatic life habitat to toxic tailings. He explained that we can't just deal with the tailings to solve problems. An owner subdivided a lot up there, and put in a bunch of ponds. Past mining and milling activities are moving and channeling Fred Burr Creek. Now the creek is "perched" on the hillside. If the stream changes, or if ponds cause the stream to move, the tailings could be inundated or washed away. EPA is proposing to cap the tailing and mill wastes on the site. Local residents are concerned as to whether this remediation action is appropriate, considering stream channel conditions. We need an expert to examine these stream conditions in order to address the real problems.

Gerald explained that lots of local folks near Fred Burr Creek are asking questions and want to know what is going on. They have heard that EPA doesn't want to talk to them. One option for our group is to have Gary and Roxann talk to Mark Simonich, and have Mark talk to John Wardell of EPA, asking him to get EPA to talk to these folks. Our job is to mediate EPA and the local folks. The committee needs to try to **set up a meeting** sometime this summer—but no date was decided upon.

Jim Dinsmore stated that the local folks don't know whether to wait until EPA gets their stuff done before asking any questions.

Roxann stated that EPA was going to do some sampling on Fred Burr Creek last summer to characterize the extent and magnitude of the water quality problems and the metal issues, and that DEQ was taking the lead in the enforcement actions. However, this enforcement action has been going on for about three years so she's not exactly sure where they are with that.

Jim Dinsmore said that EPA is in the process of developing a plan which they hope to complete early this July, and begin working on this year. There is a report out that states the water quality looks pretty good—it's the materials at the bottom of the stream that are bad. These are both a human health and an environmental problem. EPA's Mr. Griswold stated that he has been on the site four or five times with the landowner and that the landowner doesn't understand what is going on because water appears great.

Drought Planning Proposal

Gerald explained there are chronic and periodic de-watered streams. Part of the problem is that the term "de-watering" isn't very clear. The Legislature increased the amount of funding that is available through the Conservation District for watershed planning efforts.

Gerald asked DNRC if we could spend some money to identify some priority areas which are de-watered and not being improved. He thinks we could spend

about $5,000, and if this experiment works and improvements are made, we can plan to do more in the future.

Mike McLane said there is about $5,000 in the Steering Committee's checking account. We could possibly use this money and get a jump start on identifying which areas are of top priority. This would also help get data that he needs for the groundwater study and the analysis of dewatered stream conditions.

USFWS CONSULTATION PROCESS REGARDING BULL TROUT:

Kate Walker, from USFWS, gave an overview of what has happened (specifically with Forrest Service and BLM) since bull trout have been listed as an endangered species under the Federal Endangered Species Act (ESA). If you look at the Columbia River Basin, 80% of currently known bull trout habitat is on Federal land.

Kate explained primarily Section 7 of the ESA, saying it deals with consultation with Federal Land Management Agencies. When bull trout were listed, the Forrest Service and BLM had to meet their ESA obligations:

They had to write an assessment of their land management plans. (Once they wrote this assessment, it jumped into the consultation realm of Fish and Wildlife Service.)

USFWS Service then wrote an opinion on that assessment. If a management action is likely to have an adverse impact on the species then formal consultation is required.

Kate explained there are a lot of factors that kick the assessment into either formal consultation or informal consultation. A lot of allotments that don't have adversement effects went through informal consultation. USFWS gave an opinion to the Forrest Service concerning the formal consultation. This included several terms and conditions to implement improvements on the ground—specifically for grazing on Federal lands.

The categories of land management actions that will go through consultation were grouped by types:

- Timber
- Range
- Mining
- Ditches and Diversions

Kate stated that they hoped to change management on the ground for the benefit of the bull trout. USFWS looks at all of the actions, not just grazing. Mining is also a big one.

In western Montana, the issues related to grazing and bull trout were primarily in Beaverhead, Deer Lodge, Helena, some in the Lolo National Forrest, the BLM

district, and the Rock Creek drainage. Only 20 grazing allotments need to be evalutated.

Several teams were then needed to implement these terms and conditions. They had to devise an implementation monitoring strategy for all grazing allotments across BLM and Forrest Service—Columbia River Basin land. This year they have a grazing module for the grazing permittees to use. The grazing module is a "scorecard" evaluating what land conditions are and what needs to be done about it. Next year USFWS will ask the FS and the BLM if this management strategy was effective.

Forrest Service and BLM management is very under-funded, and they are very concerned about the level of monitoring they are being asked to do. It is probable that the permittees will be doing the monitoring in the future.

The bull trout spawning areas are a primary concern. They'll either have to change the allotment management so the cows aren't there when they spawn, or fence it off. Grants from FW&P help pay for the fencing, and BLM and the Forrest Service give supplies. In some cases, the Forrest Service is paying for everything.

Bob Benson said that although 80% of the bull trout is on Federal land, a lot of the problems might be caused on private land. He asked if we are targeting the most important problem, or perhaps the easiest problem to address.

Kate agreed that private land issues are the biggest problems to address, but explained that most of USFWS funding is dictated toward Federal land management agencies. Private land consultation is handled under section 10 of ESA. Currently Plum Creek Timber Co. is the most affected private landowner and USFWS is working with them. Private landowners are not held to as high of standards as Federal agencies. However, "taking" of Bull Trout is closely tied to water management.

Jim Dinsmore asked what the permittees should expect. Restrictions keep decreasing the value of allotments, and there comes a point where it is economically impossible to make a living.

Kate had a positive outlook on the whole process. She said they should expect to focus on riparian management. They should expect to see more fencing. They will see more off-site watering, and that there should be stronger adherence to existing standards. She doesn't envision grazing as being eliminated. She said she doesn't know if the present standards will meet everyone's criteria, but once these standards get truly implemented, we should see improvements and thus can minimize the negative impacts.

TROUT UNLIMITED PROPOSAL FOR RESTORING THE CLARK FORK:

Bruce Farling and **Dennis Workman** presented a report, which they describe as a "blueprint," that outlines Trout Unlimited's proposal for use of the Natural

Resource Damage Lawsuit settlement money to restore some of the damage to aquatic habitats. This report was composed with three objectives in mind:

1. To remind people what the lawsuit is all about.
2. To start a dialogue in watershed among everyone in the state (landowners, government officials, locals, agencies) about how we can enhance and restore the basin collaboratively.
3. To let everyone know that Trout Unlimited has a lot of experience with aquatic habitat restoration and is qualified to prepare this proposal.

Report has Three Principles:

1. Based on the present data from extensive research, the primary limiting factor for the aquatic community is metals. (Although we have some other problems with de-watering and nutrients, etc. that need addressing)
2. We recognize other resources, such as upland habitat, groundwater, agriculture, etc., and we don't think all the money should be spent for fish and water.
3. Successful restoration requires cooperation with private landowners.

Six Objections in Plan:

1. Restore water quality and steamflow.
2. Restore riparian habitat.
3. Improve aquatic habitat and fisheries.
4. Promote public participation in restoration.
5. Create initiatives for long-term conservation of restored area.

Key Considerations from the Plan:

1. High priority on projects benefiting native species.
2. Restoring riparian habitat.
3. Preserving and enhancing tributaries.
4. Eliminating barriers blocking fish migration.
5. Reduce losses of fish diversions.
6. Reconnect isolated habitat populations.
7. Evaluate potential or fish-friendly use of storage projects.
8. Emphasize improving and maintaining self-sustaining wild populations of fish.

Key Considerations for Restoring Water Quality and Stream Flows and Fisheries:

1. Reduce/eliminate metal pollution.
2. Reduce nutrient/sediment pollution, especially from nonpoint sources.
3. Enhance wetlands and hydrological function.
4. Improve/protect streamflows during critical times of the year.
5. Improve efficiency of water use.

Gerald asked Bruce what he thought about keeping the principal in a trust fund and only spending the interest.

Bruce emphasized that a trust fund is not what this settlement is about. People want to see improvements, and the money won't be blown off if it is guided with good planning.

Gary Ingman asked how we prioritize what needs to be addressed.

Bruce said, as far as the aquatic community is concerned, we need to take care of the metals in the tributaries first because they affect the fish. As far as implementing all other damaged resources, we need to form a screening committee to review all the projects and prioritize them.

John Sesso asked if Bruce thought the money should be spent on research.

Bruce said you need research to make certain you are addressing the right problems. However, there are a lot of projects that have already been researched and we have the data to begin addressing them immediately.

DEQ WATER QUALITY MANAGEMTN DATA ASSESSMENT:

Mike Suplee, MT DEQ, explained a detailed review of the 303-d list for the Upper Clark Fork. This list will target the streams for TMDL development over the next ten years.

Stream classification drives this whole list. All the waters in the state are classified between an "A" and an "I". "A" supports almost all beneficial uses of water (recreation, drinking water, aquatic life, agriculture, and industrial). "I" indicates severe impairment where many of the beneficial uses cannot be met.

Mike said all listed water bodies go through an assessment process to determine which ones remain on the state's 303-d list of impaired streams.

Assessment Process:

1. Gather and organize data (this includes data from different sources and of different types.)
2. Evaluate data quantity and quality (determine if the data on the water body is sufficient and credible to make a decision on that water body.)
3. Evaluate "Beneficial Use Support Determination" (this looks first at how the water body is classified then at its ability to meet those uses through independent weight of evidence tests.)

Mike defined **sufficient credible data** as chemical, physical, or biological monitoring data, alone or in combination with narrative information, that describes water quality standards.

He said they try to collect a balance of data from all three of these categories. They then score each type of data (they must score a total of at least six, out of a possible score of 12 to have sufficient data in order to make an assessment on whether the water body is beneficial or not. If they score less than six, more data must be gathered.)

When data is minimal but sufficient, impairment to one category is enough to list the stream. When data is abundant, two categories must show impairment to list the stream. *In this way, the process is conservative and leans towards resource protection when there is less data.*

Scores of six or greater are then assessed as either fully supporting their uses, threatened, partially supporting their uses, or not supporting their uses. Any water body that is not fully supporting their uses is kept on the 303-d list.

In addition to identifying the problems, Mike said they are trying to determine the probable causes and sources to these problems.

Maps of the impaired stream segments, summary information, and more detailed assessment information should be available to the public over the Internet in October.

STATE-AVISTA NEGOTIATIONS:

Steve Fry explained the current State-Avista situation. A bill was passed during legislation to temporary close the entire Clark Fork River Basin to any appropriation of water rights or depletion of water from the basin. This bill has passed and provides two years for negotiation between the State and Avista. He said the two sides met in April in Helena to lay out the groundwork concerning the re-licensing of Avista's projects. They met again at the beginning of June in Noxon and came up with the framework to go about deciding a long-term agreement known as "Existing Water Use Protection Agreement." This agreement proposed a permanent basin-wide closure.

Now we need public input for a long-term agreement that will be introduced at the next legislation. **Gerald** suggested we set up a forum to inform people about what is going on. **Jim Dinsmore** suggested that we get a team to visit major newspapers before we set up a meeting to assure more people will show up at the meeting. **John Vanesko** suggested maybe sending out brochures to rural or water right users.

It was decided that we will hold a State-Avista forum. That date was tentatively set for Thursday, September 23, in Deer Lodge.

UPDATE ON GROUND WATER STUDY:

Mike McLane explained what he thought was left uncompleted with his analysis of surface and groundwater interactions. Basin groundwater development has been well defined. We've quantitatively confirmed that groundwater is not highly developed in the basin. Most of the development possibilities and utilization lie along the alluvial corridors. Since the closure, the use of groundwater is increasing (it has increased 200% in the last 20 years.) One of the issues this grant proposed examining was TMDL concerns. The Steering Committee, their pilot project, and water quality management planning have been addressing a lot of those needs through their Water Quality Management work plan.

Mike noted that the return flows are creating strong groundwater aquifers. The Flint Creek study also shows this relationship. It is possible to do some conjunctive management pumping from groundwater to relieve impact on stream flows in the late summer, fall or winter.

Specific things in the grant that haven't been dealt with yet:

1. We haven't done any examination of irrigation in relation to groundwater aquifers or de-watered streams.
2. We need to summarize groundwater management studies in other states.
3. We need community discussions and an implementation plan.
4. We need to continue to support the characterization and analysis of groundwater and surface water relationships, as this is an on-going process.

NEXT MEETING:

The next meeting will be held at St. Mary's Center in Deer Lodge, on September 9, at 9:00 a.m. Possible topics for the next agenda include:

1. Avista-State Negotiations
2. Natural Resource Update
3. Fred Burr Creek